IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.756 OF 2007

Shri Raju Dharma Waghmare ...Applicant.

Versus

The State of Maharashtra ...Respondent.

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Mr.Viresh V. Purwant, Adv. for Applicant.
Mrs.A.S.Pai, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 28th March, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking bail in C.R.No.392 of 2006 of Jail Road Police Station, Solapur. The said case is under Section 376 of IPC.

3. It is the prosecution case that the applicant committed rape on the prosecutrix Pratibha on 15.2.2006. Thereafter, again he committed rape on her on 17.2.2006. The prosecutrix become pregnant and her father came to know about this fact. On coming to know about

this fact, the father of the prosecutrix became angry and he made enquiries with the prosecutrix as to how this happened; whereupon the prosecutrix told him that the applicant committed rape on her.

4. The learned Advocate for the applicant submitted that the sexual intercourse between the applicant and the prosecutrix was on account of consent. It is the case of the applicant that there was a love affair between the prosecutrix and the applicant and both of them secretly got married. But, as the applicant was from lower caste, this fact was not liked by the father of prosecutrix and hence the applicant has been falsely involved.

5. The prosecutrix was 21 years at the time of the incident and infact she is a graduate. She is a girl staying in the city. Looking to her background, it does not seem probable and natural that she would not disclose about the rape to her family for about ten months. From the facts *prima facie* it appears to be a case of consent.

6. Looking to the facts of this case, *prima facie*, there appears some merit in the stand taken by the applicant. In the present case the investigation is over and the charge-sheet is filed. It is not the prosecution case that the applicant is likely to abscond. Hence, I am inclined to grant bail to the applicant.

7. The applicant to be released on bail in the sum of Rs.20,000/- with one or two sureties to make up the said amount. The applicant shall not enter within the jurisdiction of Jail Road Police Station, Solapur. Before being released on bail the applicant shall inform the officer of Jail Road Police Station, Solapur, the address at which he will reside during the period that he is on bail. The applicant shall report to Walsang police station, Solapur once in a month.

8. Application is disposed of accordingly.

(SMT.V.K.TAHILRAMANI,J.)